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10/603,925	06/24/2003	Basil Treppa	059864.00842	4336
32294 7590 04/02/2008 SQUIRE, SANDERS & DEMPSEY L.L.P. 8000 TOWERS CRESCENT 14TH FLOOR TYSONS CORNER, VA 22182-2700				
EXAMINER				
HIGA, BRENDAN Y				
ART UNIT		PAPER NUMBER		
2153				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/603,925

Applicant(s)

TREPPA ET AL.

Examiner

BRENDAN Y. HIGA

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 22-25 and 27-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 22-25 and 27-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on January 07, 2008.

Claims 1-20, 22-25, and 27-34 remain pending.

Response to Arguments

Applicant's arguments filed January 07, 2008 have been fully considered but they are not persuasive.

In response to applicant's argument that "[*Syvanne*] is limited to the management and configuration of a single device. There is not [a] cluster of nodes or [a] network of devices that are managed by the management system of [*Syvanne*]." The examiner respectfully disagrees.

First, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Here, the examiner's rejection was made in combination with Bruck et al. (US 6,691,165) ("Bruck") in view of Syvanne (US 2002/0157018) ("Syvanne"). Thus although Syvanne may not teach management of a cluster of devices, Bruck, clearly teaches the configuration and management of a cluster of server computers (see abstract).

Secondly, the Supreme Court emphasized in *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. at 1727 (2007), that "[t]he combination of familiar elements according to

known methods is likely to be obvious when it does no more than yield predictable results." (emphasis added) *Id.* at 1740.

Thus, even if Syvanne teaches performing the management and configuration on a single device, which appears to be for illustrative purposes (see Fig. 1), Syvanne in no way teaches his invention being "limited" to the management and configuration of a single device, and one of ordinary skill in the art could have applied Syvanne's teachings to a second or even third device with predictable results.

For example, one of ordinary skill in the art would have been motivated to reapply the teachings of Syvanne to a second device within the network cluster of Bruck's invention, in order to achieve the predictable result of detecting a misconfiguration on a second device of the network cluster.

Response to Amendment

As per claims 24 and 30, the claims do not invoke 35 U.S.C. 112 6th paragraph, thus the examiner will give the claim limitations its broadest reasonable interpretation.

In order to properly invoke 35 U.S.C. 112 6th the claim must meet the following three-prong analysis:

- (A) the claim limitation must use the phrase "means for" or "step for";
- (B) the "mean" for" or "step for" must be modified by function language;
- (C) the phrase "means for" or "step for" must not be modified by sufficient structural, material, or acts for achieving the specified function. (emphasis added)

For example, claim 24 recites the limitation 'obtaining means for obtaining', however, the phrase "means for" is preceded by a sufficient act (i.e. 'obtaining') for achieving the specific function, and thus does not invoke 35 U.S.C.112 6th paragraph, if the applicant wishes to invoke 35 U.S.C. 112 6th paragraph, appropriate correction is required.

Claim Rejections - 35 USC § 101

Claims 18, 19, 20 and 22-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claimed invention is directed to a computer readable medium configured to control a processor, however, in the specification see page 12, the applicant discloses the computer readable medium as embodying "communication media" including, *inter alia*, "wired media such as a wired network or direct-wired connection, and wireless media such as acoustic, RF, infrared and other wireless media", which are non-statutory subject matter under 35 U.S.C 101.

In order to overcome the 35 U.S.C. 101 rejection the examiner recommends amending the claim to read on a 'computer readable storage medium', which is supported in applicant's specification on page 11.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15, 17-18, 20, 22-24 and 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck et al. (US 6691165), hereafter referred to as Bruck, in further view of Syvanne (US 2002/0157018).

As per claim 1, Bruck teaches a system comprising: a network interface configured to communicate with nodes in a cluster (Fig. 6, ref. 614); a memory configured to store information relating to cluster management (see col. 3, lines 45-55); a configuration subsystem coupled to a remote management broker (read as the single-point, see above, col. 3, lines 64-67), wherein the remote management broker is configured to distribute information between the nodes in the cluster (see col. 3, lines 45-55, 64-67 and col. 28, lines 2-16); a processor configured to perform actions, including: access the cluster from a single-point (single-point, see col. 3, lines 64-67); obtain information relating to at least two devices within the cluster (see Fig. 12 and col. 21, lines 55-60, wherein remote management console monitors multiple server computers from a single interface); present the information to a user (see col. 3, lines 64-67); and determine network management (NM) operations to perform to the cluster (col. 21, line 66-col. 22, lines 13); perform the determined NM operations (col. 21, line 66-col. 22, lines 13);

Bruck does not expressly teach determining if the NM operations on the cluster, including said at least two devices, were applied correctly, and if not, rolling back to a successful configuration.

However, in the same art of network management and configuring, Syvanne teaches, a management system for configuring network devices (see Fig. 1), wherein, after configuration changes are made to the network device, the network management system then determines if it is able to set up a new connection with network device. However, if the managed network device is not able to set up a new connection with the network management system, then the network device automatically reverts to a old configuration in order to restore connectivity (see ¶ 0012).

One of skill in the art would have been motivated to combine the teachings of Bruck with the teachings of Syvanne, for determining if the NM operations on at least two devices, were applied correctly, and if not, rolling back to a successful configuration, in order to allow Bruck's system to recover from an error state.

As per claim 2, Bruck further teaches the processor is configured to provide a command line interface configured to access the cluster (see col. 4, lines 1-4)

As per claim 3, Bruck further teaches the processor is configured to provide a graphical user interface that is configured to access the cluster (see col. 4, lines 1-4).

As per claim 4, Bruck further teaches an aggregator configured to aggregate data relating to the devices within the cluster (see "token message" or "911 message", having a membership field, col. 3, lines 45-55, read as collecting management information from cluster servers).

As per claim 5, Bruck further teaches a secure transport configured to transport messages (see Secure Socket Layer, col. 27, lines 55-59); a remote management broker server (see, Fig. 7, ref. 1703 and single-point, col. 3, lines 64-67) coupled to the secure transport (col. 27, lines 55-59); and a Remote Management Brick client coupled (see controller, i.e. internet browser application, Fig. 17, ref. 1702) to the secure transport (col. 27, lines 55-59).

As per claim 6, Bruck further teaches, wherein the Remote Management Broker is further configured to collect attributes from the Configuration Subsystem (see col. 3, lines 45-55, read as collecting management information from cluster servers).

As per claim 7, Bruck further teaches wherein the messages include a header that is configured to authenticate the messages ("state sharing information messages", see col. 10, lines 9-18, including a "membership field", col. 10, lines 53-64).

As per claim 8, wherein a magic field that identifies one or more of the messages as a remote management broker message (see "Signal Type", col. 10, lines 19-38, which identifies the type of message read as a "magic field").

Although, Bruck teaches using the SSL protocol in the system (see Secure Socket Layer, col. 27, lines 55-59), as best understood, it is not necessarily the case that SSL protocol is being used to distribute the "state sharing information messages" (see col. 10, lines 9-18, read as "the messages") throughout the cluster network. Thus, it is not necessarily the case that the state sharing information message header includes a message authentication code. However, the examiner takes official notice of this limitation. The SSL protocol was well known in the art at the time of the invention, (see Hickman, Kipp, "The SSL protocol", November 29, 1994), which includes a Message Authentication Code, "MAC-DATA", that acts as a shared secret (see Hickman, Kipp, "The SSL protocol" §1.2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to distribute the "state sharing information messages" using the SSL protocol, in order to provide a secure method of distributing messages within the server cluster.

As per claim 10, Bruck further teaches applying a configuration lock that is intended to prevent other applications from performing network management operations on the device within the cluster (see "cluster password", col. 23, lines 1-19).

As per claim 34, Bruck further teaches an aggregator configured to aggregate data relating to the devices within the cluster (see Fig. 12, wherein the data relating to the devices is 'aggregated' on a single user interface).

Claims 9, 11-15, 17, 18, 20, 22-24 and 27-33 are rejected under the same rationale as claims 1-8 and 10 since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

Claims 16, 19, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck (US 6691165), in view of Syvanne (US 2002/0157018), in further view of Chapman et al. (US 5774650), hereafter referred to as Chapman

As per claims 16, 19, and 25 Bruck does not expressly teach applying a configuration lock that is intended to prevent other applications from performing network management operations on the devices within the cluster during a predetermined time; and releasing the configuration lock after the network management operations are performed.

However, in the same art of network management, Chapman teaches a method for temporarily restricting access to a network system (see abstract and col. 6, line 7-col. 7, line 10, read as configuration lock) while a network administrator performs network maintenance (see col. 6, line 65-col. 7, line 6, read as network management

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operations) and releasing the temporary access restriction once the network administrator has finished (see col. 7, lines 33-38).

One of skill in the art would have been motivated to modify the teachings of Bruck with the teachings of Chapman, for restricting access to the network cluster in order to provide a network administrator with adequate resources for performing network maintenance.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brendan Y. Higa whose telephone number is (571)272-5823. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Glenton B. Burgess/
Supervisory Patent Examiner, Art Unit 2153

BYH